

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Plaintiff,

Criminal No. 21-cr-142 (DSD/KMM)

v.

(1) Mark Allen Miller,

Defendant.

ORDER

This matter is before the Court on the Motion for an Extension of Time to File Motions (ECF 48), filed by Defendant Mark Allen Miller. Mr. Miller requests that the deadline for filing pretrial motions in this case be extended until September 6, 2021 because the government has informed his counsel that additional discovery will be provided. Mr. Miller does not ask that the September 15, 2021 hearing date be changed, and his counsel represents that the motion is unopposed by the government. The Court finds good cause to allow Mr. Miller additional time to file his pretrial motions.

THEREFORE, IT IS HEREBY ORDERED that the motion is GRANTED as follows.

Pursuant to Local Rule 12.1, IT IS HEREBY ORDERED that:

1. All motions in the above-entitled case must be filed and served consistent with Federal Rules of Criminal Procedure 12(b) and 47 on or before **September 6**,

2021.¹ D. Minn. LR 12.1(c)(1). Counsel are advised that Magistrate Judge Menendez does not require any courtesy copies related to pretrial motions.

2. In light of the current COVID-19 pandemic and the District Court General Orders, the Court has somewhat limited ability to hold in-person motions hearings in the near future. Therefore, on or before **September 1, 2021**, counsel for the defendant must file a letter on ECF indicating whether the defendant consents to hold the motions hearing in this matter via video conference.

3. **Counsel must electronically file a letter on or before September 6, 2021, if no motions will be filed and there is no need for a hearing.**

4. All responses to motions must be filed by **September 10, 2021**. D. Minn. LR 12.1(c)(2).

5. Any Notice of Intent to Call Witnesses² must be filed by **September 10, 2021**. D. Minn. LR. 12.1(c)(3)(A). In order to avoid the need for a recess of the motions hearing, the government is requested to make, by **September 10, 2021**, all disclosures which will be required by Fed. R. Crim. P. 26.2 and 12(h).

6. Any Responsive Notice of Intent to Call Witnesses³ must be filed by **September 13, 2021**. D. Minn. LR 12.1(c)(3)(B).

7. A motions hearing will be held pursuant to Federal Rules of Criminal Procedure 12(c) where:

¹ “Before filing a motion under Fed. R. Crim. P. 12(b), the moving party must confer with the responding party. The parties must attempt in good faith to clarify and narrow the issues in dispute.” D. Minn. LR 12.1(b).

² “When a party intends to call witnesses at a hearing on a motion under Fed. R. Crim. P. 12(b), the party must file a notice within 35 days after the arraignment. The notice must identify the number of witnesses whom the party intends to call, the motion or motions that each witness will be addressing, and the estimated duration of each witness’s testimony.” D. Minn. LR 12.1(c)(3)(A).

³ “If after reviewing a notice under LR 12(c)(3), a party intends to call witnesses at the same hearing, that party must file a responsive notice within 38 days after the arraignment. The responsive party must identify the number of witnesses whom the party intends to call, the motion or motions each witness will be addressing, and the estimated duration of each witness’s testimony.” D. Minn. LR 12.1(c)(3)(B).

- a. The government makes timely disclosures and the defendant identifies in the motions particularized matters for which an evidentiary hearing is necessary; or
- b. Oral argument is requested by either party in its motion, or responsive pleadings, and the Court finds that such argument is necessary.

8. The motions hearing shall be held before Magistrate Judge Katherine Menendez on **September 15, 2021, at 1:00 p.m. in a location to be determined.** D. Minn. LR 12.1(d).

9. **TRIAL:**

a. **IF NO PRETRIAL MOTIONS ARE FILED BY DEFENDANT,** the following trial and trial-related dates are:

- i. Two hard copies of the voir dire, jury instructions, witness list, exhibit list and motions in limine shall be filed with the chambers of District Judge David S. Doty on or before **one week before trial.** Counsel shall email the proposed jury instructions, exhibit and witness lists to ***doty_chambers@mnd.uscourts.gov.***
- ii. This case shall commence trial on **a date to be determined,** at **9:00 a.m.** before District Judge David S. Doty in Courtroom 14W, U.S. Courthouse, 300 South Fourth Street, **MINNEAPOLIS,** Minnesota.

b. **IF PRETRIAL MOTIONS ARE FILED,** the trial date, and other related dates, will be rescheduled following the ruling on pretrial motions. Counsel must contact the Courtroom Deputy for District Judge David S. Doty to confirm the new trial date.

Date: August 25, 2021

s/ Katherine Menendez
Katherine Menendez
United States Magistrate Judge